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22 SEP 2006

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In re Application of	:	DECISION ON
Myers et al	:	
Application No.: 10/542,681	:	
PCT No.: PCT/US2004/002890	:	
Int. Filing Date: 03 February 2004	:	RENEWED PETITION
Priority Date: 05 February 2003	:	
Attorney Docket No.: 43229A	:	
For: RUBBER MODIFIED POLYMERS FROM	:	
VINYL AROMATIC MONOMERS	:	UNDER 37 CFR 1.181

This decision is in response to the "RENEWED PETITION UNDER 37 CFR 1.181" filed 01 August 2006, requesting reconsideration of the decision mailed on 14 June 2006 in that a complete copy (4 pages) of the Declaration was purportedly filed in the USPTO on 19 July 2005.

### **BACKGROUND**

In a decision from this Office on 14 June 2006 the petition filed on 06 March 2006 was dismissed because applicant's postcard was not accepted as prima facie evidence because the copy provided was not stamped by the USPTO.

On 01 August 2006, applicant filed the instant renewed petition. Applicant's position is that even though the postcard was lost by the USPTO that applicant has shown by uncontested evidence that a complete declaration was submitted.

### **DISCUSSION**

Applicant's arguments are unpersuasive because MPEP §503 specifies the necessary requirements for prima facie evidence of receipt in the USPTO of all the items listed on the postcard as summarized in the Office's decision of 14 June 2006. Thus, applicant has not met the requirement to show that a complete of the declaration was received on 19 July 2005.

Applicant's postcard is not accepted as *prima facie* that a complete Declaration was deposited with the U.S. Patent and Trademark Office on 19 July 2005 because the copy provided of the itemized postcard submitted is not date stamped by the USPTO as required.

Accordingly, the filing date of the application for purposes of 35 USC 371(c)(1), (c)(2), and (c)(4) remains March 6, 2006. Applicant is correct that the sentence "failure to respond will result in the Abandonment of the application" was a mistake and the application would not go abandon.

Therefore, the date of receipt of the Declaration is 06 March 2006, which is the date that a complete declaration was received at the Office. Accordingly, The 35 USC 371(c)(1), (c)(2), and (c)(4) date of this application is 06 March 2006

### **DECISION**

The petition under 37 CFR 1.181 is **DISMISSED**, without prejudice.

If reconsideration on the merits of this petition is desired, a proper response must be filed within TWO (2) MONTHS from the mail date of this decision. Any reconsideration request should include a cover letter entitled "Second Renewed Petition Under 37 CFR 1.181".

Any further correspondence with respect to this matter should be addressed to the Mail Stop PCT, Commissioner for Patents, Office of PCT Legal Administration, P.O. Box 1450, Alexandria, Virginia 22313-1450, with the contents of the letter marked to the attention of the Office of PCT Legal Administration.



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